

CAHILL GORDON & REINDEL LLP  
32 OLD SLIP  
NEW YORK, NY 10005

HELENE R. BANKS  
ANIRUDH BANSAL  
DAVID L. BARASH  
LANDIS C. BEST  
BRADLEY J. BONDI  
BROCKTON B. BOSSON  
JONATHAN BROWNSON \*  
JOYDEEP CHOUDHURI \*  
JAMES J. CLARK  
CHRISTOPHER W. CLEMENT  
LISA COLLIER  
AYANO K. CREED  
PRUE CRIDDLE ±  
SEAN M. DAVIS  
STUART G. DOWNING  
ADAM M. DWORKIN  
ANASTASIA EFIMOVA  
JENNIFER B. EZRING  
HELENA S. FRANCESCHI  
JOAN MURTAGH FRANKEL  
JONATHAN J. FRANKEL

ARIEL GOLDMAN  
PATRICK GORDON  
JASON M. HALL  
STEPHEN HARPER  
WILLIAM M. HARTNETT  
NOLA B. HELLER  
CRAIG M. HOROWITZ  
DOUGLAS S. HOROWITZ  
TIMOTHY B. HOWELL  
DAVID G. JANUSZEWSKI  
ELAI KATZ  
JAKE KEAVENY  
BRIAN S. KELLEHER  
RICHARD KELLY  
CHÉRIE R. KISER †  
JOEL KURTZBERG  
TED B. LACEY  
MARC R. LASHBROOK  
ALIZA R. LEVINE  
JOEL H. LEVITIN  
GEOFFREY E. LIEBMANN

TELEPHONE: (212) 701-3000  
WWW.CAHILL.COM

1990 K STREET, N.W.  
WASHINGTON, DC 20006-1181  
(202) 862-8900

CAHILL GORDON & REINDEL (UK) LLP  
20 FENCHURCH STREET  
LONDON EC3M 3BY  
+44 (0) 20 7920 9800

WRITER'S DIRECT NUMBER

BRIAN T. MARKLEY  
MEGHAN N. McDERMOTT  
WILLIAM J. MILLER  
EDWARD N. MOSS  
NOAH B. NEWITZ  
WARREN NEWTON §  
DAVID R. OWEN  
JOHN PAPACHRISTOS  
LUIS R. PENALVER  
KIMBERLY PETILLO-DÉCOSSARD  
SHEILA C. RAMESH  
MICHAEL W. REDDY  
OLEG REZZY  
THORN ROSENTHAL  
TAMMY L. ROY  
JONATHAN A. SCHAFFZIN  
DARREN SILVER  
JOSIAH M. SLOTNICK  
RICHARD A. STIEGLITZ JR.  
ROSS E. STURMAN  
SUSANNA M. SUH

ANTHONY K. TAMA  
JONATHAN D. THIER  
JOHN A. TRIPODORO  
GLENN J. WALDRIP, JR.  
HERBERT S. WASHER  
MICHAEL B. WEISS  
DAVID WISHENGRAD  
C. ANTHONY WOLFE  
COREY WRIGHT  
ELIZABETH M. YAHL  
JOSHUA M. ZELIG

\* ADMITTED AS A SOLICITOR IN  
ENGLAND AND WALES ONLY  
± ADMITTED AS A SOLICITOR IN  
WESTERN AUSTRALIA ONLY  
† ADMITTED IN DC ONLY  
§ ADMITTED AS AN ATTORNEY  
IN THE REPUBLIC OF SOUTH AFRICA  
ONLY

(212) 701-3207

MEMORANDUM ENDORSED

March 4, 2022

Re: United States v. Eric Spencer, 1:21-CR-193 (GHW)

The Honorable Gregory H. Woods  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Chambers 2260  
New York, New York 10007

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Dear Judge Woods:

We, the undersigned counsel for the defendant Eric Spencer, respectfully submit this letter to request that he be transferred from the Essex County, New Jersey Correctional Facility to the Metropolitan Detention Center – Brooklyn (“MDC”)<sup>1</sup> immediately and through the conclusion of his trial, which is scheduled to commence on March 22, 2022. The Government has no objection to this application.

Throughout our representation of Mr. Spencer, we have experienced significant difficulty communicating with him because of his pretrial detention at the non-Federal Essex County facility. The facility still does not permit in-person visits, and we were informed by facility personnel yesterday that this is not expected to change in the near term. We are therefore forced to try to communicate with Mr. Spencer by telephone, which under any circumstances would make it difficult to review the voluminous discovery in this case with him. But even our scheduled calls are routinely canceled at the last minute, or the facility calls so long after the agreed-upon time that we are no longer available. Calls also frequently disconnect, as happened twice during a call

<sup>1</sup> We understand the Metropolitan Correction Center (“MCC”) is closed.

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on March 2. And when this happens we are unable to call Mr. Spencer back, but rather the facility must call us back, which it sometimes does not do.

Nor can we communicate with Mr. Spencer by email, since Essex County does not provide inmates access to privileged email, a service that is provided to Federal pretrial detainees. This will become even more prejudicial when we receive the Government's 3500 material today, since it will be extremely challenging to discuss that material with Mr. Spencer, and prepare to cross-examine the Government's witnesses, with no in-person or email communication, and sporadic and unreliable telephone contact.

We have tried hard to be accommodating of the non-Federal, out-of-state facility's limitations. The Government has also asked the facility on our behalf to resolve the communications issues, but even this has had no apparent effect, and so we are forced to seek the assistance of the Court.

Mr. Spencer's trial is under three weeks away, so we are not asking that he be transferred for any prolonged period. If, on the other hand, Mr. Spencer remains at the Essex County jail, we are certain our difficulties in communicating with him will persist, and we have real concerns about our ability to mount an effective defense if they do. Accordingly, we respectfully request that the Court order the Marshals Service and Bureau of Prisons to transfer Mr. Spencer to the MDC through the end of his trial.

As indicated, the Government has no objection to this application, and has kindly agreed to reach out to the Marshals Service to request the transfer. We are hopeful that the Marshals Service will accommodate the request, but in the interest of time, particularly in light of the approaching trial, we respectfully request that the Court order the transfer.

The Court has reviewed Defendant's March 4, 2022 letter regarding Mr. Spencer's possible transfer from Essex County to the MDC. The Court is encouraged to hear that the United States Attorney's Office is working with the Marshals Service and defense counsel to facilitate this transfer. Given the above proffer from defense counsel, it appears that Mr. Spencer's transfer to the MDC would be useful in anticipation of trial.

If Mr. Spencer has not been transferred to the MDC before the final pretrial conference on March 8, 2022, the Court directs an official from the Bureau of Prisons to appear at the final pretrial conference to discuss the possibility of Mr. Spencer's transfer to the MDC.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 69.

Respectfully submitted,

/s/ Anirudh Bansal

Anirudh Bansal  
Lauren Riddell  
Samuel Weiner

SO ORDERED.

Dated: March 4, 2022  
New York, New York

  
GREGORY H. WOODS

United States District Judge